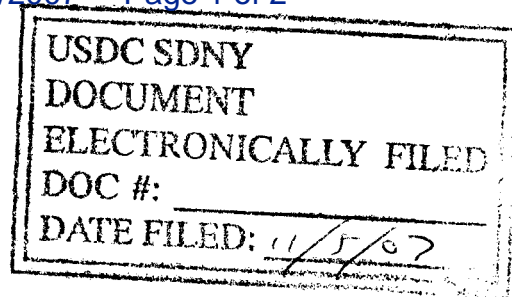


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OFFICE OF THE ATTORNEY GENERAL



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By Hand

MEMO ENDORSED

November 1, 2007

Honorable William H. Pauley
United States District Judge
Southern District of New York
500 Pearl Street
Room 2210
New York, New York 10007

Re: Federal Express Corp. v. Brockington et al. (07 CV 4775)(WHP)

Your Honor:

This Office is counsel for defendants Kumicki Gibson, Margaret Gormley-King, Caroline Downey, sued individually and in their capacities as officials in New York State's Division of Human Rights and for the New York State Division of Human Rights (collectively, the "State defendants"). This action seeks a declaration that a civil rights matter commenced administratively in the New York State Division of Human Rights ("DHR") by defendant Isaac L. Brockington against plaintiff Federal Express is preempted by the Employee Retirement Income Security Act ("ERISA"), and an injunction against those DHR proceedings.

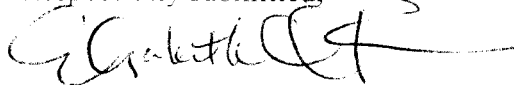
On August 17, this Court entered an order directing that the parties "report whether they have resolved the ERISA preemption issue by September 7, 2007." The Court then extended that date at the joint request of the State defendants and plaintiff three times, to October 15, 2007. We write now, on behalf of the State defendants and plaintiff jointly, to report on the status of the settlement, and to request that the court place this matter on the suspense calendar.

Specifically, since the last status letter, I have not yet received a new draft of the settlement stipulation from plaintiff's counsel, although he did inform me he was preparing one. In the meantime, the administrative hearing in this matter went forward on September 17th and 18th, and has been continued to dates during the second week of November. However, after discussions between counsel, it was agreed that, in light of the conduct of the administrative hearing thus far, there appears at present to be little need to negotiate a detailed settlement agreement, as plaintiff presently believes that, based on the current administrative proceedings, the issues in the hearing are not preempted by ERISA.

In light of the foregoing, and the ongoing administrative hearing, the parties therefore respectfully request that the Court place this matter on the suspense calendar. Alternatively, if the Court determines not to place the matter on the suspense calendar, the parties respectfully request that the Court set the new date for a status report as November 30, 2007.

Thank you for your assistance with this matter.

Respectfully submitted,




Elizabeth A. Forman
Assistant Attorney General

cc: Ian Harris, Esq. (by fax)
Colby S. Morgan, Esq. (by fax)
Mr. Isaac L. Brockington (by mail)

Application granted.

SO ORDERED:


WILLIAM H. PAULEY III U.S.D.J.

11/5/07
The parties shall submit a status report by November 30, 2007.